

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

<p>CAPANA SWISS ADVISORS AG, a Swiss corporation; AMERIMARK AUTOMOTIVE AG, a Swiss corporation,</p> <p>Plaintiffs,</p> <p>v.</p> <p>RYMARK, INC., a Utah corporation; NICHOLAS THAYNE MARKOSIAN, an individual; JOHN KIRKLAND, an individual; and VICKY SMALL, an individual,</p> <p>Defendants.</p>	<p>SCHEDULING ORDER</p> <p>Case No. 2:23-cv-00467-RJS-CMR</p> <p>Judge Robert J. Shelby</p> <p>Magistrate Judge Cecilia M. Romero</p>
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Before the court is Plaintiff's Motion for Scheduling Order (Motion) (ECF 18). Defendants failed to file a response to the Motion, and the time for doing so has passed. *See* DUCivR 7-1(a)(4)(D)(ii) ("A response to a motion must be filed within 14 days after service of the motion."). Defendants' failure to respond is grounds for granting the Motion. *See* DUCivR 7-1(f) ("[F]ailure to respond timely to a motion may result in the court granting the motion without further notice."). For good cause appearing, the court hereby GRANTS the Motion. The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause pursuant to Fed. R. Civ. P. 6.

****ALL TIMES 4:30 PM UNLESS INDICATED****

1.	PRELIMINARY MATTERS	DATE
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Nature of claims and any affirmative defenses:

- a. Date the Rule 26(f)(1) conference was held? 9/28/2023
- b. Have the Plaintiffs submitted the Attorney Planning Meeting Report? 10/23/2023
- c. Deadline for 26(a)(1) initial disclosures? 21 days after the date of this Scheduling Order.

2. DISCOVERY LIMITATIONS **NUMBER**

- a. Maximum number of depositions by Plaintiff(s): 20
- b. Maximum number of depositions by Defendant(s): 20
- c. Maximum number of hours for each deposition (unless extended by agreement of parties): 7
- d. Maximum interrogatories by any party to any party: 35
- e. Maximum requests for admissions by any party to any party: 35
- f. Maximum requests for production by any party to any party: 75

- g. The parties shall handle discovery of electronically stored information as follows:

Discovery shall comply with the provisions of Fed. R. Civ. P. 34. All costs of converting the format of any electronic data to another electronic format or from printed format to electronic format shall be borne by the producing party unless otherwise agreed. Productions will include electronic native files or single-page Tiff images with extracted metadata, color for color, with document level OCR and standard DAT and OPT load files with the metadata fields, below if available and/or applicable.

BegDoc	LastDateModified
EndDoc	Subject
BegAtt	Company
EndAtt	FileName
AttachRange	Email To
Attachment_ID	Email From
ParentID	Email CC
MD5Hash	Email BCC
Custodian	Email_Subject
Source	ReceivedDate
Title	ReceivedTime
Author	SentDate
DateCreated	SentTime

Notwithstanding the foregoing, any party may request that the responding party provide specifically identified documents in each such document's native electronic format provided that the requesting party sets forth a reasonable basis for requesting the document in native format. Nothing herein shall limit a responding party's right to object to the production of documents on the basis that the request is overbroad, unduly burdensome, electronic documents are not readily available because of undue burden or cost, duplicative, or any other valid objection.

- h. The parties shall handle a claim of privilege or protection as trial preparation material asserted after production as follows:

The parties will adhere to the provisions contained in the Court's Standard Protective Order dealing with claims of privilege or protection.

- i. Last day to serve written discovery: 8/30/2024
- j. Close of fact discovery: 9/30/2024
- k. (optional) Final date for supplementation of disclosures and discovery under Rule 26(e): 8/30/2024

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| 3. | AMENDMENT OF PLEADINGS/ADDING PARTIES¹ | DATE |
| a. | Last day to file Motion to Amend Pleadings: | <u>7/31/2024</u> |
| b. | Last day to file Motion to Add Parties: | <u>7/31/2024</u> |
| 4. | RULE 26(a)(2) EXPERT DISCLOSURES & REPORTS | DATE |
| | Disclosures (subject and identity of experts) | |
| a. | Party(ies) bearing burden of proof: | <u>10/30/2024</u> |
| b. | Counter disclosures: | <u>12/5/2024</u> |
| | Reports | |
| a. | Party(ies) bearing burden of proof: | <u>1/10/2025</u> |
| b. | Counter reports: | <u>2/10/2025</u> |
| 5. | OTHER DEADLINES | DATE |
| a. | Last day for expert discovery: | <u>3/12/2025</u> |
| b. | Deadline for filing dispositive or potentially dispositive motions: | <u>4/11/2025</u> |
| c. | Deadline for filing partial or complete motions to exclude expert testimony: | <u>3/12/2025</u> |
| 6. | SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION | DATE |
| a. | Likely to request referral to a magistrate judge for settlement conference: | <u>No</u> |
| b. | Likely to request referral to court-annexed arbitration: | <u>No</u> |
| c. | Likely to request referral to court-annexed mediation: | <u>No</u> |
| d. | The parties will complete private mediation/arbitration by: | <u>2/10/2025</u> |
| e. | Evaluate case for settlement/ADR on: | <u>12/5/2024</u> |

¹ Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

f. Settlement probability: Fair

7. TRIAL AND PREPARATION FOR TRIAL

Deadline for filing a request for a scheduling conference with the district judge for the purpose of setting a trial date if no dispositive motions are filed.
4/18/2025

If dispositive motions are filed and the district judge's ruling on these motions does not resolve the case, the parties shall file a request for a scheduling conference with the district judge for the purpose of setting a trial date no later than one week after the ruling on the dispositive motions.

8. OTHER MATTERS

Parties should fully brief all Motions in Limine well in advance of the pretrial conference.

DATED this 7 November 2023.



Magistrate Judge Cecilia M. Romero
United States District Court for the District of Utah